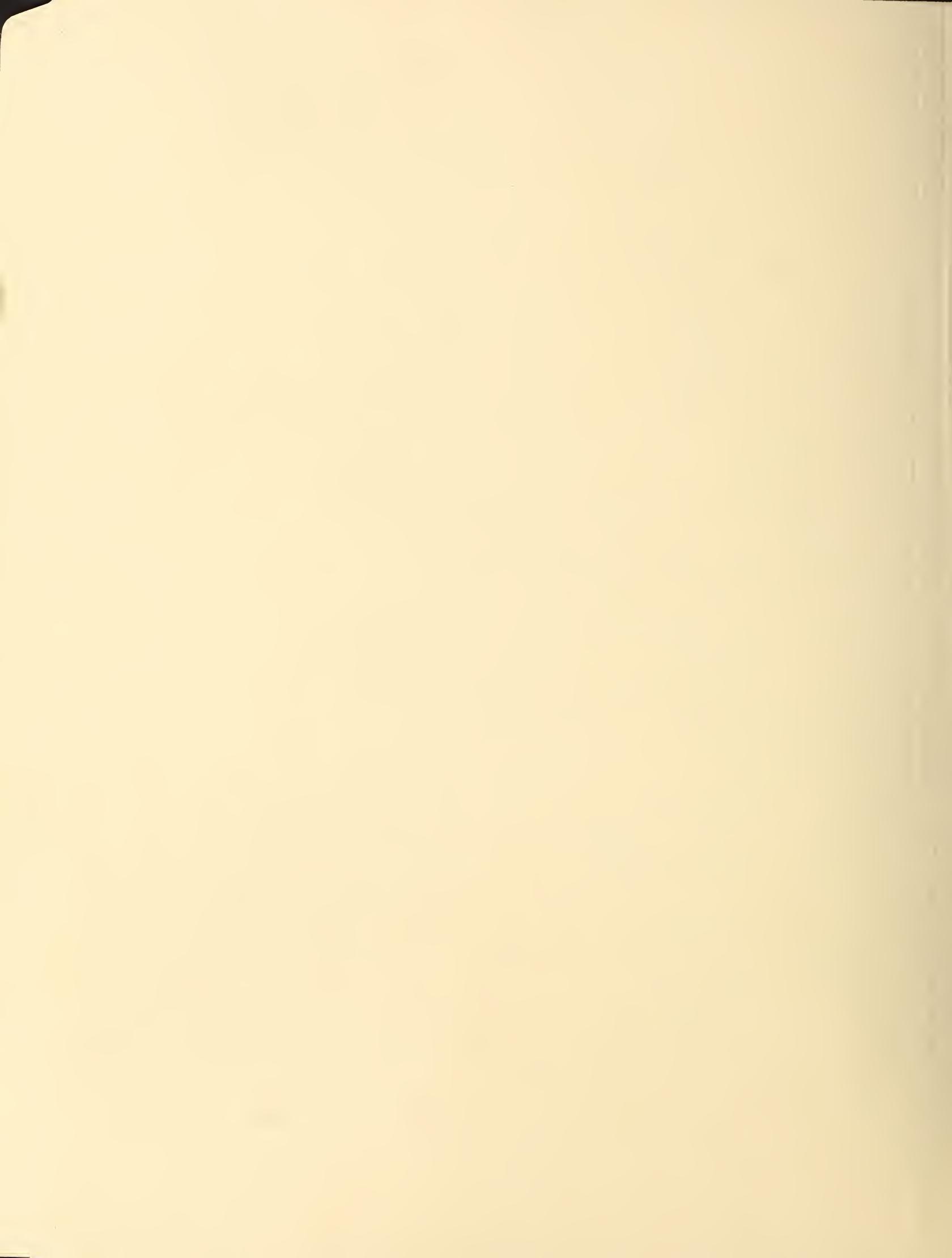


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Q U E S T I O N S

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A N S W E R S

ON THE PACKERS AND STOCKYARDS ACT



United States Department of Agriculture
Agricultural Marketing Service
Livestock Division

HOW THE SERVICE STARTED

1. What is the Packers and Stockyards Act?

A law passed by Congress in 1921 placing the responsibility on the Secretary of Agriculture to regulate the livestock and meat packing industry.

2. Why was the Act passed?

To remedy various unfair and deceptive practices on livestock markets and in the meat packing industry discovered as a result of investigations made by the Federal Trade Commission.

3. Who benefits from the Act?

Farmers and Ranchers, for it protects their interests when selling livestock at a market subject to the Act by preventing stockyards, market agencies, dealers and packers from carrying on practices that would injure livestock producers.

General Public, for it provides the community with a financially sound and stable outlet for livestock and a good source of meat supplies.

Market Operators, for it protects their interests from those operators who may be lax in handling their responsibilities.

4. Are all livestock markets subject to the Act?

No. Only those markets making a charge for their services that have 20,000 square feet of pen space and sell to out-of-State buyers.

5. Are all packers subject to the Act?

No. Only those operating in interstate commerce; that is, buying livestock in one State and selling it in another or selling meat in more than one State.

HOW THE SERVICE OPERATES

6. Who determines what markets and packers are subject to the Act?

The Secretary of Agriculture. The work is handled through 19 district offices of the Packers and Stockyards Branch, Livestock Division, Agricultural Marketing Service, U. S. Department of Agriculture. See pages 12, 13, and 14 for list of offices and States they cover.

7. How does the district office determine what markets are subject to the Act?

A representative of the district office contacts the owners of all auction barns and terminal markets in his area. He actually measures the pens to determine the size and checks the records of the market to see if it is selling livestock to out-of-State buyers.

If the market has 20,000 square feet of pen space and handles any interstate business, then the P&S representative submits a report to Washington, recommending the market be made subject to the Packers and Stockyards Act.

Market owners are notified that their market has been checked and found to be subject to the Act, and that it will be "posted" unless there is some legitimate reason why it should not be posted.

8. What is meant by "posted"?

That the market has been found subject to the Act and that notices prepared by the Packers and Stockyards Branch have been placed in at least three different conspicuous places at the market.

9. What is the purpose of posting?

To give notice to every person coming to the yards that the market is subject to all the regulations of the Packers and Stockyards Act.

HOW THE SERVICE PROTECTS FARMERS AND RANCHERS

10. What are the regulations of the Act that protect producers selling livestock through a posted market?

Briefly, the Act provides that:

- a. Commission firms and auction markets selling livestock on commission must carry a bond based on volume of business to assure farmers and ranchers that they will receive the net proceeds for the livestock they sell through the market.
- b. All scales shall be tested at least twice each year and that the weighmaster be instructed properly on how to weigh accurately.
- c. The facilities such as pens, scales, unloading chutes and such shall be adequate.
- d. All livestock shall be sold under open competitive conditions.
- e. Charges for stockyard services and selling services shall be reasonable.
- f. Each farmer and rancher shall receive full and true accounting covering the sale of his livestock. The account of sale shall show the buyer, number of head, weight, price, all expenses and the net amount.
- g. No stockyards commission firm or auction market shall engage in any unfair, deceptive or unjustly discriminatory practices that would injure the farmer or rancher selling through the market.

11. How will you know that a market complies with all these regulations?

A representative from the district P&S office makes regular supervisory trips to posted markets to check on their operations. In addition, all complaints are investigated immediately.

HOW THE SERVICE HANDLES BONDING

12. How much bond does the average commission firm or auction market carry?

The minimum is \$5,000, but most bonds are above \$20,000. The average is about \$30,000 or above.

13. Does the person selling livestock have any protection other than the bond?

Yes. No market operator is allowed to use the money received from the sale of livestock for his own use. This money is held in trust for the seller of the livestock until he cashes his check.

14. Are commission firms and auction markets the only ones required to furnish bond?

No. All regular dealers (speculators) and order buyers, buying regularly at a market, are required to furnish bond coverage. This protects the commission firms and auction markets and further strengthens the financial stability of the market. The U. S. Department of Agriculture determines what dealers and order buyers shall be registered and bonded.

15. Do farmers or ranchers who buy some livestock at the posted markets have to furnish bond?

No. Not as long as they are buying to restock their ranches and farms or feed lots.

16. What is a custodial account?

A special bank account set up by the firm in which it deposits money received from all livestock sold. No checks can be written on the account except to pay livestock consignors and to withdraw legitimate expenses such as yardage, commissions, insurance, etc. This money is held in trust for the shipper until he cashes his check. The Federal Deposit Insurance Corporation insures each shipper having funds in this account up to \$10,000 in case the bank should fail.

HOW THE SERVICE ASSURES ACCURATE WEIGHING

17. Who tests the scales at a market?

Any competent scale agency so long as it tests according to instructions from the minimum load to the maximum load weighed. A P&S representative will witness most tests.

18. How are scales tested?

By using metal test weights that have been calibrated at a certain weight. They are usually 50 lb. weights or 1,000 lb. weights. They are placed on the scale platform starting at 50 lbs. and building up to the maximum load usually weighed on the scale. The scale is checked for accuracy each time a weight is added.

19. How often are scales checked?

At least twice a year. More often if the scales receive a great deal of use.

20. How does a farmer or rancher know a weighmaster is weighing his livestock accurately?

Each weighmaster receives weighing instructions. He signs a certificate declaring he has studied the instructions and that he will weigh accordingly.

21. Are any checks made of the weighing?

Yes. Representatives of the P&S Branch make observations of each weighmaster to determine as near as possible if he is weighing correctly. The representative may reweigh livestock as a further check.

22. What should a person do if he is not satisfied with the weight of his livestock?

Request immediately that the livestock be reweighed. If that is not possible, report the incident immediately to the P&S district supervisor. Although the animals may be gone by that time and cannot be reweighed, the scales can be checked.

HOW THE SERVICE STIMULATES COMPETITIVE BUYING

23. What are the advantages to competitive buying?

The producer has a better chance of getting the best possible price for his livestock when there are several buyers bidding for them.

24. Who is responsible for obtaining competitive bidding?

The Act places the responsibility on the selling agency, whether it be by auction or private treaty to stimulate and obtain active bidding.

25. How can the livestock producer be sure the selling agency is acting in his interest?

The selling agency must maintain a position at all times in its relations with packers, dealers and others which will assure absolute loyalty to its shippers.

26. Is a market owner or his employees permitted to buy livestock out of consignment?

No. Neither owners of commission firms or owners of markets or their employees.

27. May an auction market buy livestock consigned to it for sale to support the market or protect the shipper's interest at the market?

Yes. It is the responsibility of the auction company to see that livestock sells for what is considered the true market value. When bidding does not reach that price, the auction market may buy such livestock. This "weigh up" account is checked regularly to see that it is not used as a means of speculating in consigned livestock.

28. May auctioneers buy out of consignment?

No. Auctioneers or other employees that actually help determine the sale or value of the livestock are not allowed to buy out of consignment for any purpose for their own individual accounts. This includes weighmasters, clerks and starters as well as auctioneers.

HOW THE SERVICE HANDLES AUDITS

29. Are records of commission firms and market operators checked?

Yes. An accountant is assigned to almost every district office.

30. What does this accountant do?

He audits the various firms as time permits to determine if they have engaged in any practices that would be injurious to persons selling livestock at the market.

31. What are some of the items checked by the accountant?

He checks to see:

- a. If the financial condition of the company is sound.
- b. If the company is using money held in trust for shippers.
- c. If the company is giving shippers full accounting, covering the sale of livestock.
- d. If correct commission and yardage charges have been made.
- e. If there have been any unfair or deceptive practices that would be injurious to shippers.

32. What happens if the accountant finds violations of the Act?

The action taken depends upon the seriousness of the violation. The Act provides that administrative action can be taken such as the issuance of a cease and desist order or the suspension of a registrant from doing business on a market for a given length of time. The Act also provides for action through Federal court for certain violations. In no case will action be taken without the respondent being given the opportunity of a full and complete hearing.

HOW THE SERVICE HANDLES VIOLATIONS

33. What happens if a firm or individual is found to be violating the Act?

First, the violation is discussed with the management or with the individual and they are requested to discontinue the practice causing the violation.

34. What happens if they continue?

Formal action is taken by the procedure prescribed in the Act. If after a public hearing, a firm is found to be in violation, the Secretary of Agriculture may issue a cease and desist order which orders the firm to stop doing the things in violation.

In severe cases, the Secretary may suspend the registration of the firm for a given length of time.

35. What happens if the firm does not cease violating the Act when ordered to do so?

The Act provides for a penalty in the way of a fine to be recovered through the U. S. Department of Justice in Federal court.

36. How does the public know of hearings and their results?

The public is notified of hearings through news releases made available to press, radio, and television.

If the hearing is of enough interest, many news outlets may send reporters to cover the hearing.

Every effort is made to see that the public learns of the results of the hearing, especially farmers and ranchers who may sell livestock through the market involved.

HOW THE SERVICE HANDLES COMPLAINTS

37. What should a farmer or rancher do if he feels he has been damaged in some way at the market?

First, he should discuss the matter with the market owner. Then, if he still feels that he has been damaged, he should contact the district P&S office and explain the transaction.

38. What does the district office do after it hears this complaint?

It will fully investigate the complaint and make a recommendation to the person making the complaint. If the evidence should show that the shipper has been damaged, usually the district supervisor can bring about a settlement informally.

39. If an informal settlement can not be made, what recourse does a shipper have?

He can make a formal complaint against the stockyards company, commission firm, dealer or auction market. This complaint is fully investigated by the supervisor and the complaint and investigative report are forwarded to the legal division of the P&S Branch, Washington.

40. What happens then?

The complaint will be set down for an oral hearing. A Hearing Examiner from the U. S. Department of Agriculture will preside. Each party will be given an opportunity to present its evidence. A transcription is made of the evidence and a decision made by the judicial officer on the evidence submitted. No charge is made to either party for this service.

41. Is there any time limit on when a complaint has to be made?

Yes. A complaint must be made within 90 days after the transaction takes place. The quicker the complaint is made the easier it is to investigate and bring about a settlement.

OTHER QUESTIONS AND ANSWERS

42. Who determines the commission fees and yardage charges?

Market owners set their commission fees and yardage charges. Such charges must be filed with the P&S Branch, but as long as such rates are considered reasonable, they are accepted for filing.

43. What happens if the commission fees and yardage charges are deemed unreasonable?

First, an informal conference is held to work out an agreement. If this fails a rate study is made, and a hearing held. Based upon the evidence presented the Secretary then sets what is found to be reasonable rates.

44. How does the Act apply to packers?

Congress covered Packers in broad terminology to cover all phases of this operation. The Act states that no packer shall engage in any practice that would be unfair, deceptive or unjustly discriminatory.

Also, it states that packers shall not engage in practices that could be considered monopolistic in nature.

45. What other protection does the Act give shippers?

When Congress passed this Act, it realized it could not cover everything specifically, so the Act was worded in broad terms stating that no stockyard, market agency (commission firm) or dealer shall engage in any unfair, deceptive or unjustly discriminatory practices.

The Packers & Stockyards Act has been used by the live-stock industry for many years as a code of ethics.

PACKERS AND STOCKYARDS - DISTRICT OFFICES

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AREA: Montana & Northern Wyoming

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Phone: CLiffside 4-7249
AREA: Northern half Illinois &
Wisconsin

Marion L. Marshall, Supervisor
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Cincinnati 25, Ohio
Phone: KIrby 1-2204
AREA: Cincinnati, Kentucky &
West Virginia

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AREA: Colorado, Northern part New Mexico,
S. E. Wyoming & Western Nebraska

John F. Clendenin, Supervisor
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AREA: Washington, Oregon, Northern part
Idaho

Curtis L. Kemp, Supervisor
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AREA: Utah, Southern part Idaho,
S. W. part Wyoming

H. L. Jones, Supervisor
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Phone: REment 6-0141

AREA: Oklahoma, Western part of
Arkansas

Leo J. Waller, Supervisor
609 Livestock Exchange Building
Omaha 7, Nebraska

Phone: MArket 4085

AREA: Nebraska, except Western part
& Southwest part Iowa

J. E. Roningen, Supervisor
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AREA: Iowa (except Southwest corner)
& South Dakota

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Phone: GLenvie 1-7149

AREA: Minnesota & North Dakota

Edward L. Thompson, Supervisor
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Washington 25, D. C.

Phone: REpublic 7-4142, Ext. 5864

AREA: Maryland & Virginia

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AREA: Texas & Southwestern part of
New Mexico



